SENATE BILL REPORT
SB 6113

As of January 19, 2024

Title: An act relating to fair access to community solar.

Brief Description: Concerning fair access to community solar.

Sponsors: Senators Lovick, Dhingra, Hunt, Kuderer, Lovelett, Saldaña and Shewmake.

Brief History:
Committee Activity: Environment, Energy & Technology: 1/19/24.

Brief Summary of Bill

- Establishes criteria for a new community solar program that provides a monthly bill credit for the subscriber's portion of the electricity generated by a community solar project.
- Increases the size allowed for a community solar project from no greater than 1000 kilowatts (kW) to 5000 kW, and specifies it must be located in the state and directly connected to an electric utility's distribution system.
- Requires at least 50 percent of a electric utility's community solar capacity to go to low-income subscribers or low-income service providers.
- Directs the UTC to host a minimum of two community solar program workshops before adopting rules and to review the program at specified intervals.
- Expands the size of a community solar project under the Community Solar Expansion Program from 199 kW to 5000 kW.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kimberly Cushing (786-7421)

Background: Community Solar. The U.S. Department of Energy, defines community solar as any solar project or purchasing, within a geographic area, where benefits flow to multiple customers. These customers, or subscribers, receive credits on their electricity bills for their share of the power produced. Typically the energy is generated by solar panels at an off-site array.

In Washington, a community solar company must register with the Utilities and Transportation Commission (UTC) before engaging in business in the state. The UTC may require annual reporting requirements and fees for processing applications and regulation, and issue penalties against community solar companies for failure to register.

Under current law, a community solar project is a solar energy system that can generate no more than 1000 kilowatts (kW) of direct current electricity.

Community Solar Expansion Program. In 2022, the Legislature directed the Washington State University Energy Program to implement and administer a community solar incentive program for the development of projects benefiting low-income individuals, low-income service providers, and qualifying tribal or public agencies. Administrators must be a utility, nonprofit, tribal housing authority or other local housing authority.

Utility participation in the expansion program is voluntary. Those that participate must provide one-time incentive payments for administrative startup costs and the installed cost of the portion of the project that provides direct benefits to qualified subscribers. Incentive payments are not to exceed $100 million and are funded by a public utility tax credit. Utilities must also provide the compensation for the generation of electricity based on the system size and administrator.

Summary of Bill: Community Solar Program. Criteria for a new community solar program is established. Under the program, a community solar project (CSP) is one or more solar photovoltaic energy systems that provides project subscribers a community solar bill credit and:

- is no larger than 5000 kilowatts (kW) of alternating current electricity, rather than 1000 kW, unless approved by the utility serving the project;
- is located in Washington and is directly connected to an electric utility's distribution system;
- has a minimum of three subscribers, with no one customer having more than 49 percent of the generating capacity of the project;
- is not located on the same parcel as another project, unless it is a preferred site.

CSPs with a capacity larger than 1000 kW must use prevailing wage labor for construction.

At least 50 percent of each electric utility's community-solar generating capacity must be

subscribed by low-income subscribers, low-income service provider subscribers, or both, and is exempt from community solar program-related administrative fees. The UTC or a consumer-owned utility's (COU) governing board may amend this low-income subscriber level ten years after the adoption of the program rules, provided the percentage is not less than the utility's percentage of low-income ratepayers. CSPs that receive a low-income credit rate adder must maintain their low-income subscriber threshold for the project's lifetime.

A CSP manager owns or operates one or more CSPs, and a community solar subscription manager markets CSPs or provides community-solar related services, performs administrative actions to enroll customers in CSPs, or manages interactions with subscribers between a CSP manager and electric utility. A CSP manager or community subscription manager must collect information regarding the financial benefits realized by low-income subscribers and service providers; administer the CSP in a transparent manner to allow for fair and nondiscriminatory participation; and provide a disclosure form with the terms and conditions of participation to each subscriber.

The term community solar company is removed from current law.

Billing and Credits. Each subscriber's monthly community solar bill credit must be applied to the next retail electric bill and may offset all costs. Any unused bill credit must be rolled forward on the subscriber's utility account until fully allocated or until termination of the subscriber's utility account. Any changes from an update of the subscriber list must be reflected on the following month's retail electric bill.

Electric utilities must reasonably allow for the transfer of subscriptions, including allowing a subscriber to retain a subscription if they move within the same electric utility service territory. The utility may not change a subscriber's customer class because of a subscription to a CSP.

A CSP manager may enter into a net-crediting program on behalf of an eligible customer. The net-crediting agreement should outline payment terms. The electric utility may impose a net-crediting fee on the CSP manager, capped at 1 percent of the subscription fee. Retail electric bills must display the subscription fee and a net-credit equivalent to the total bill credit value for the generation period.

The UTC must adopt a community solar bill credit valuation methodology that recognizes and incorporates specific factors that CSPs bring to the electrical grid, including the value of electricity, the project to transmission and distribution capacity, grid reliability and resilience, environmental attributes, greenhouse gas emissions and methane leakage reductions, and energy security. The community solar bill credit valuation must provide additional value for a CSP when the majority of the project's capacity is subscribed by low-income subscribers, the project is owned by or serves tribal communities, and the project incorporates energy storage.

The community solar bill credit valuation must:

- ensure the ability to finance, develop, and maintain CSPs;
- maximize the value that ratepayers, subscribers, and host communities receive from the CSPs;
- be updated annually or biannually; and
- include an annual escalator.

The UTC or a COU's governing body may adopt a rate that differs from the community solar bill credit valuation methodology if they have good cause. The UTC must adopt a valuation methodology for unsubscribed energy. Unsubscribed energy may be rolled forward on a CSP account until the end of the following calendar year and allocated by a CSP manger or subscription manger at any time during that period. Undistributed bill credit must be compensated to the CSP manager.

Community Solar Program Workshops. The UTC must host a minimum of two community solar program workshops to ensure the consideration of interested parties' expertise in any rules to be adopted for a community solar program. The working group must include investor-owned utilities (IOUs); solar industry representatives; consumer advocates; members of, or organizations serving, overburdened communities, vulnerable populations, and tribes with clean energy programs or projects; and other interested parties.

The UTC must review any recommendations, comments, or relevant information from the workshops before adopting rules. The UTC must adopt rules to implement the program, not later than 18 months after the effective date of this act, that include:

- a methodology for valuing each subscriber's bill credit rate;
- a process for the certification of community solar facilities and bill credit rate for each subscriber type within 60 days of their application;
- modifications of existing interconnection standards, fees, and processes as needed to facilitate efficient and cost-effective interconnection of CSPs;
- a requirement for each IOUs to efficiently connect a CSP to its electrical distribution grid without discrimination against facilities or subscribers;
- specified consumer protections, including against disconnection of service;
- a requirement for each CSP manager to send notice of subscriber enrollment to the IOU servicing the site of the community solar facility;
- a requirement that no later than six months after the adoption of rules, each IOU must publish or update tariffs to implement the community solar program;
- opportunities for subscribers that receive utility allowances; and
- program evaluations and consumer protections to ensure subscribers are effectively and equitably receiving savings from participating in a community solar program.

Review of Community Solar Program. The UTC must review the community solar program five and ten years after the rules have been adopted and submit a report to the Legislature with specific information, including the number and location of operating community solar

facilities, the amount of nameplate capacity, the number and types of subscribers, whether savings were achieved, and other metrics identified by the UTC or working group.

The UTC may adopt rules to require community solar organizations and electric utilities to provide the relevant information to be reported to the Legislature.

Registration with the Utilities and Transportation Commission. A CSP manager—or their contracted agents, affiliates, or electric service providers, rather than a community solar company, may only engage in business in Washington if they register with and provided required information to the UTC. Registration is no longer required on an annual basis, and a CSP manager must provide proof of insurance rather than a current balance sheet.

Two reasons for the UTC to deny registration to a CSP manager are removed from current law: not possessing adequate (1) financial resources, or (2) technical competency to provide the proposed service. If the UTC does not act within 30 days of a CSP manager filing an application to register to engage in business in Washington, it is deemed approved. An application fee for the cost of registering must not preclude nonprofits, individuals, and small businesses from participating as CSP mangers.

If the UTC finds a registered CSP manager has violated laws, it may suspend or revoke a registration upon its own motion, but not upon a complaint by an interested party.

Community solar subscription managers must also register with the UTC before engaging in business in Washington. The registration must be on a form prescribed by the UTC and include specified information the UTC may require by rule, including a copy of the standard community solar subscription agreement.

Consumer-Owned Utilities. A consumer-owned utility may voluntarily adopt the UTC's community solar program rules or develop their own provided they meet the same requirements. To ensure that subscribers are effectively and equitably receiving savings from participating in a community solar program, the program rules must include reporting and consumer protections. A COU may also voluntarily adopt the UTC's community solar credit rate valuation methodology, or develop their own, provided they meet the same requirements.

A participating COU must efficiently connect a CSP to its electrical distribution grid and not discriminate against facilities or subscribers. A COU is not required to approve a CSP if it conflicts with the Bonneville Power Administration's definition of small generator.

Community Solar Expansion Program. The definition of a CSP under the Community Solar Expansion Program is expanded to include the new definition of CSPs, which would the increase the limit on the size of a CSP from no more than 199 kW to no more than 5000 kW. Several additional definitions under the community solar expansion program are aligned with the definitions under the new community solar program.

Appropriation: None.

Fiscal Note: Requested on January 12, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will help Washington reach its climate commitment goals. It lessens the energy burden for low-income residents, increases access to solar for all residents, spreads awareness of alternative energy sources, and creates jobs. The UTC would set the solar bill credit rate and rules to make sure there's transparency and disclosure for consumers, to ensure that the costs of the solar program is not shifted to general rate payers and affords flexibility as prices change over time. This policy aligns with federal policies such as the Inflation Reduction Act, the solar Investment Tax Credit, and the Solar for All program.

CON: Community Solar programs already exist, and we haven't seen the necessary demand. This bill would disincentivize existing community solar programs. Becoming a participant of the program would mean facing a host of new requirements, effectively losing control of one's own infrastructure. The proposed rules include offsetting all costs on the electric bill with community solar bill credits not limited to just electricity, requiring a minimum percentage of low-income subscribers, which could limit project sizes or hinder others from participating. This bill would change the financial burden so that all ratepayers would be paying for the use of the infrastructure without receiving the benefits of the solar energy. The bill does not exempt low-income customers from the subscription fees that go back to the third-party community solar managers.

Persons Testifying: PRO: Mason Rolph, Olympia Community Solar; Derek Chernow, Coalition for Community Solar Access; James Feinstein, Arcadia Power; Charlee Thompson, NW Energy Coalition; Bill Garry; Don Steinke, Climate Action of Southwest Washington; TERRY NELSON, Skagit Valley Clean Energy Cooperative; Bailey Cunningham; Rachel Schmidt, Homes First; Dean ENELL, Whidbey Climate Action; Rep. Hackney.

CON: Cassie Bordelon, Puget Sound Energy; Josie Cummings, Avista; Jay Balasbas, PacifiCorp; Nicolas Garcia, WA PUD Association; Dever Haffner-Ratliffe, Cowlitz PUD; Dave Warren, Okanogan PUD, Klickitat PUD.

Persons Signed In To Testify But Not Testifying: No one.